

Chapter 65.—ABATEMENTS, CREDITS AND REFUNDS

Subchapter A.—Procedure in General

§ 6401. Amounts treated as overpayments.

(b) Excessive credits.

If the amount allowable as credits under sections 31 (relating to tax withheld on wages), 39 (relating to certain uses of gasoline and lubricating oil) and 667(b) (relating to taxes paid by certain trusts) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31 and 39), the amount of such excess shall be considered an overpayment.

(As amended June 21, 1965, Pub. L. 89-44, title VIII, § 809(d) (6), 79 Stat. 168; Dec. 30, 1969, Pub. L. 91-172, title III, § 331(c), 83 Stat. 598.)

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-172 struck out "under sections 31 and 39" following "Excessive credits" in subsec. (b) heading and inserted in the text reference to section 667(b) (relating to taxes paid by certain trusts).

1965—Subsec. (b). Pub. L. 89-44 substituted "Excessive credits under sections 31 and 39" for "Excessive withholding" as the subsec. heading and expanded the subsec. to include credits under section 39.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning before Jan. 1, 1970, see section 331(d) of Pub. L. 91-172, set out as a note under section 665 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (b) by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1402 of this title.

Subchapter B.—Rules of Special Application

Sec.

6424. Lubricating oil not used in highway motor vehicles.¹

6425. Adjustment of overpayment of estimated income tax by corporation.

AMENDMENTS

1968—Pub. L. 90-364, title I, § 103(e) (9), June 28, 1968, 82 Stat. 264, inserted item 6425.

§ 6411. Tentative carryback adjustments.

(a) Application for adjustment.

A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), or by a capital loss carryback provided in section 1212(a) (1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which the carryback results and within a period of 12 months from the

end of such taxable year (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused investment credit;

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

(h) Allowance of adjustments.

Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the net operating loss, net capital loss, or unused investment credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary or his delegate may disallow, without further action, any application which he finds contains errors of computations which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused investment credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) Consolidated returns.

If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused investment credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe. (As amended Nov. 2, 1966, Pub. L. 89-721, § 2(a)—(e), 80 Stat.

¹ Analysis not amended to include § 6424 added by Pub. L. 89-44, title II, § 202(b), June 21, 1965, 79 Stat. 137.

1150; Dec. 27, 1967, Pub. L. 90-225, § 2(b), 81 Stat. 731; Dec. 30, 1969, Pub. L. 91-172, title V, § 512(d), 83 Stat. 639.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-172, § 512(d)(1), (2), provided quick refund procedure, presently available in the case of net operating loss carrybacks, to be made available in the case of the 3-year capital loss carryback, and substituted "net operating loss, net capital loss, or unused investment credit" for "net operating loss or unused investment credit" in par. (1).

Subsec. (b). Pub. L. 91-172, § 512(d)(2), substituted "net operating loss, net capital loss, or unused investment credit" for "net operating loss or unused investment credit" wherever such term appears.

Subsec. (c). Pub. L. 91-172, § 512(d)(2), substituted "net operating loss, net capital loss, or unused investment credit" for "net operating loss or unused investment credit."

1967—Subsec. (a). Pub. L. 90-225 added "(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year)" following "within a period of 12 months from the end of such taxable year".

1966—Subsec. (a). Pub. L. 89-721, § 2(a), (b), (c), provided in the introductory material for a tentative carryback adjustment based on an investment credit carryback as provided or in section 46(b) of this title and inserted "or unused investment credit" following "the taxable year of the net operating loss", inserted in par. (1) "or unused investment" following "net operating loss", and struck out in par. (5) "of such loss" and inserted in lieu thereof "from which the carryback is made".

Subsec. (b). Pub. L. 89-721, § 2(d), inserted "or unused investment credit" following "net operating loss" in two instances.

Subsec. (c). Pub. L. 89-721, § 2(d), (e), inserted "or unused investment credit" following "net operating loss" and "or credit" following "such loss".

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2(g) of Pub. L. 89-721 provided that: "The amendments made by this section [to subsec. (a), (b) and (c) of this section and section 6501(j) of this title] shall apply with respect to taxable years ending after December 31, 1961, but only in the case of applications filed after the date of the enactment of this Act [Nov. 2, 1966]. The period of 12 months referred to in the second sentence of section 6411(a) of the Internal Revenue Code of 1954 [subsec. (a) of this section] (as amended by this section) for filing an application for a tentative carryback adjustment of tax attributable to the carryback of any unused investment credit shall not expire before the close of December 31, 1966."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6501 of this title.

§ 6412. Floor stocks refunds.

(a) In general.

(1) Passenger automobiles, etc.

Where before the day after the date of enactment of the Excise Tax Reduction Act of 1965, or before January 1, 1966, January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974,

any article subject to the tax imposed by section 4061(a)(2) has been sold by the manufacturer, producer, or importer and on such day or such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by the manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to the article on such day or such date, if—

(A) claim for such credit or refund is filed with the Secretary or his delegate on or before the 10th day of the 8th calendar month beginning after such day or such date based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after such day or such date by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before such 10th day reimbursement has been made to the dealer by the manufacturer, producer, or importer for the tax reduction on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(c) Repealed. Pub. L. 89-44, title II, § 209(d), June 21, 1965, 79 Stat. 141.

(As amended June 21, 1965, Pub. L. 89-44, title II, § 209 (a), (d), 79 Stat. 141, 144; Mar. 15, 1966, Pub. L. 89-368, title II, § 201(b), 80 Stat. 66; Apr. 12, 1968, Pub. L. 90-285, § 1(a)(2), 82 Stat. 92; June 28, 1968, Pub. L. 90-364, title I, § 105(a)(2), 82 Stat. 265; Dec. 30, 1969, Pub. L. 91-172, title VII, § 702(a)(2), 83 Stat. 660.)

REFERENCES IN TEXT

The date of enactment of the Excise Tax Reduction Act of 1965, referred to in subsec. (a)(1), is June 21, 1965.

AMENDMENTS

1969—Subsec. (a)(1). Pub. L. 91-172 struck out reference to Jan. 1, 1970 and added reference to Jan. 1, 1974.

1968—Subsec. (a)(1). Pub. L. 90-364 substituted "January 1, 1970, January 1, 1971, January 1, 1972, or January 1, 1973," for "May 1, 1968, or January 1, 1969,".

Subsec. (a)(1). Pub. L. 90-285 substituted "May 1, 1968" for "April 1, 1968".

1966—Subsec. (a)(1). Pub. L. 89-368 substituted "January 1, 1966, April 1, 1968, or January 1, 1969," for "January 1, 1966, 1967, 1968, or 1969,".

1965—Subsec. (a)(1). Pub. L. 89-44, § 209(a), made floor stock refunds available with respect to passenger cars in dealers' inventories on the various reduction dates for the passenger car tax and required claims for credit or refund to be filed on or before the 10th day of the 8th calendar month beginning after the date of the tax reduction.

Subsec. (e). Pub. L. 89-44, § 209(d), repealed subsec. (e), which related to cross reference.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90-364 effective Apr. 30, 1968, see section 105(c) of Pub. L. 90-364, set out as a note under section 4061 of this title.

Amendment by Pub. L. 90-285 effective Mar. 31, 1968, see section 1(b) of Pub. L. 90-285, set out as a note under section 4061 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by Pub. L. 89-44 to take effect on June 22, 1965, see section 701(c) of Pub. L. 89-44, set out as a note under section 4061 of this title.

FLOOR STOCK REFUNDS

Section 209(b) of Pub. L. 89-44 provided that:

"(1) In general.—Where before the day after the date of the enactment of this Act [June 21, 1965] any article subject to the tax imposed by section 4111, 4121, 4141, 4151, 4161, 4171, 4191, or 4451 of the Internal Revenue Code of 1954 (hereinafter in this Act referred to as the "Code"), or where before January 1, 1966, any article subject to the tax imposed by section 4061(b), 4091(1), or 4131 of the Code, has been sold by the manufacturer, producer, or importer, and on such day or such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by the manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to the article on such day or such date, if—

"(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before February 10, 1966 (or August 10, 1966, in the case of an article subject to the tax imposed by section 4061(b), 4091(1), or 4131 of the Code), based upon a request submitted to the manufacturer, producer, or importer before January 1, 1966 (or July 1, 1966, in the case of an article subject to the tax imposed by section 4061(b), 4091(1), or 4131 of the Code), by the dealer who held the article in respect of which the credit or refund is claimed; and

"(B) on or before such February 10 (or such August 10 in the case of an article subject to the tax imposed by section 4061(b), 4091(1), or 4131 of the Code) reimbursement has been made to the dealer by the manufacturer, producer, or importer for the tax reduction on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

"(2) Definitions.—For purposes of this subsection—

"(A) The term 'dealer' includes a wholesaler, jobber, distributor, or retailer.

"(B) An article shall be considered as 'held by a dealer' if title thereto has passed to the dealer (whether or not delivery to him has been made), and if for purposes of consumption title to the article or possession thereof has not at any time been transferred to any person other than a dealer. For purposes of paragraph (1) and notwithstanding the preceding sentence, an article shall be considered as 'held by a dealer' and not to have been used, although possession of such article has been transferred to another person, if such article is returned to the dealer in a transaction under which any amount paid or deposited by the transferee for such article is refunded to him (other than amounts retained by the dealer to cover damage to the article). Moreover, such an article shall be considered as held by a dealer on the day after the date of the enactment of this Act [June 21, 1965] even though it is in the possession of the transferee on such day, if it is returned to the dealer (in a transaction described in the preceding sentence) before August 1, 1965.

"(C) In the case of an article subject to the tax imposed by section 4451 (relating to playing cards)—

"(i) an article shall be treated as having been sold by the manufacturer before the day after the date of the enactment of this Act [June 21, 1965] if it has been removed for consumption or sale before such day, and

"(ii) if an article has been removed for consumption or sale, but has not been sold, by the manufacturer before such day, the manufacturer shall be treated as the dealer.

"(3) Limitation on eligibility for credit or refund.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

"(4) Other laws applicable.—All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4061(b), 4091(1), 4111, 4121, 4131, 4141, 4151, 4161, 4171, 4191, and 4451 of the Code shall, insofar as applicable and not inconsistent with paragraphs (1), (2), and (3) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the taxes."

REFUNDS RESPECTING CONSUMER PURCHASES

Section 209(c) of Pub. L. 89-44 provided that:

"(1) In general.—Where after May 14, 1965, and before the day after the date of the enactment of this Act [June 21, 1965], a new automotive item subject to the tax imposed by section 4061(a)(2) of the Code, or a new self-contained air-conditioning unit subject to the tax imposed by section 4111 of the Code, has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article, and the tax made applicable to the article on such day, if—

"(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before February 10, 1966, based upon information submitted to the manufacturer, producer, or importer before January 1, 1966, by the person who sold the article (in respect to which the credit or refund is claimed) to the ultimate purchaser; and

"(B) on or before February 10, 1966, reimbursement has been made to the ultimate purchaser for the tax reduction on the article.

"(2) Limitation on eligibility for credit or refund.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

"(3) Other laws applicable.—All provisions of law, including penalties, applicable in respect to the taxes imposed by sections 4061(a)(2) and 4111 of the Code shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax."

§ 6413. Special rules applicable to certain employment taxes.

(a) Adjustment of tax.

(4) District of Columbia as employer.

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Commissioners of the District of Columbia and each agent designated by them who makes a return pursuant to section 3125 shall be deemed a separate employer.

(c) Special refunds.

(1) In general.

If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed \$3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or

not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed \$4,200, or (B) during any calendar year after the calendar year 1958 and prior to the calendar year 1966, the wages received by him during such year exceed \$4,800, or (C) during any calendar year after the calendar year 1965 and prior to the calendar year 1968, the wages received by him during such year exceed \$6,600, or (D) during any calendar year after the calendar year 1967, the wages received by him during such year exceed \$7,800, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first \$4,800 of such wages received in such calendar year after 1958 and before 1966, or which exceeds the tax with respect to the first \$6,600 of such wages received in such calendar year after 1965 and before 1968, or which exceeds the tax with respect to the first \$7,800 of such wages received in such calendar year after 1967.

- (2) Applicability in case of federal and state employees, employees of certain foreign corporations, and Governmental employees in Guam, American Samoa, and the District of Columbia.

(A) Federal employees.

In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed \$3,600 for the calendar year 1951, 1952, 1953, or 1954, \$4,200 for the calendar year 1955, 1956, 1957, or 1958, or \$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, \$6,600 for the calendar year 1966 or 1967, or \$7,800 for any calendar year after 1967, determined by each such head or agent as constituting wages paid to an employee.

(F) Governmental employees in the District of Columbia.

In the case of remuneration received from the District of Columbia or any instrumentality wholly owned thereby, during any calendar year, the Commissioners of the District of Columbia and each agent designated by them who makes a return pursuant to section 3125(c) shall, for purposes of this subsection, be deemed a separate employer.

- (3) Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act.

In the case of any individual who, during any calendar year after 1967, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.

(As amended July 30, 1965, Pub. L. 89-97, title II, §§ 317(e), (f), 320(b)(5), (6), 79 Stat. 389, 390, 393, 394; Jan 2, 1968, Pub. L. 90-248, title I, § 108(b)(5), (6), title V, § 502(a), 81 Stat. 835, 934.)

REFERENCES IN TEXT

Section 1400 of the Internal Revenue Code of 1939, referred to in subsec. (c)(1), was repealed by section 7851 (e)(3) of the Internal Revenue Code of 1954, with respect to remuneration paid after Dec. 31, 1954.

For provisions covering remuneration after that date, see section 3101 of this title (Internal Revenue Code of 1954).

AMENDMENTS

1968—Subsec. (c)(1). Pub. L. 90-248, § 108(b)(5), inserted "and prior to the calendar year 1968" after "the calendar year 1965", "or (D) during any calendar year after the calendar year 1967, the wages received by him during such year exceed \$7,800," after "exceed \$6,600," and "and before 1968, or which exceeds the tax with respect to the first \$7,800 of such wages received in such calendar year after 1967".

Subsec. (c)(2)(A). Pub. L. 90-248, § 108(b)(6), substituted "\$6,600 for the calendar year 1966 or 1967, or \$7,800 for any calendar year after 1967" for "or \$6,600 for any calendar year after 1965".

Subsec. (c)(3). Pub. L. 90-248, § 502(a), added par. (3). 1965—Subsec. (a)(4). Pub. L. 89-97, § 317(e), added subsec. (a)(4).

Subsec. (c)(1). Pub. L. 89-97, § 320(b)(5), inserted "and prior to the calendar year 1968" after "the calendar year 1958", "or (C) during any calendar year after the calendar year 1965, the wages received by him during such year exceed \$6,600" after "exceed \$4,800," and "and before 1966, or which exceeds the tax with respect to the first \$6,600 of such wages received in such calendar year after 1965" before the period at the end of the par.

Subsec. (c)(2)(A). Pub. L. 89-97, § 320(b)(6), substituted "\$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, or \$6,600 for any calendar year after 1965" for "or \$4,800 for any calendar year after 1958".

Subsec. (c)(2)(F). Pub. L. 89-97, § 317(f)(1), added subpar. (F) and inserted reference to the District of Columbia in the par. catchline.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c)(1), (2)(A) of this section by section 108(b) of Pub. L. 90-248 applicable only with respect to remuneration paid after December 1967, see section 108(c) of Pub. L. 90-248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by section 317 of Pub. L. 89-97 applicable with respect to services performed after the quarter ending September 30, 1965, and after the quarter in which the Secretary of the Treasury receives a certification from the Commissioners of the District of Columbia expressing their desire to have the insurance system established by sections 401 et seq. and 1395c et seq. of Title 42 extended to the officers and employees coming under the provisions of such amendments, see section 317(g) of Pub. L. 89-97, set out as a note under section 410 of Title 42.

Amendment of section by section 320 of Pub. L. 89-97 applicable with respect to remuneration paid after December, 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 3121 of Title 26.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 401 and 13951.

§ 6415. Credits or refunds to persons who collected certain taxes.

(a) Allowance of credits or refunds.

Credit or refund of any overpayment of tax imposed by section 4251 or 4261 may be allowed to the person who collected the tax and paid it to the Secretary or his delegate if such person establishes, under such regulations as the Secretary or his delegate may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtains the consent of such person to the allowance of such credit or refund.

(b) Credit on returns.

Any person entitled to a refund of tax imposed by section 4251 or 4261 paid, or collected and paid, to the Secretary or his delegate by him may, instead of filing a claim for refund, take credit therefor against taxes imposed by such section due upon any subsequent return.

(c) Refund of overcollections.

In case any person required under section 4251 or 4261 to collect any tax shall make an overcollection of such tax, such person shall, upon proper application, refund such overcollection to the person entitled thereto.

(d) Refund of taxable payment.

Any person making a refund of any payment on which tax imposed by section 4251 or 4261 has been collected may repay therewith the amount of tax collected on such payment. (As amended June 21, 1965, Pub. L. 89-44, title VI, § 601(b), 79 Stat. 153.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-44, § 601(b) (1), (2), substituted "section 4251 or 4261" for "sections 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286" and eliminated final sentence which referred to payment outside the United States of taxes imposed under pars. (1), (2) and (3) of sec. 4231.

Subsecs. (b)—(d). Pub. L. 89-44, § 601(b) (1), struck out "section 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286" wherever appearing and inserted in lieu thereof "section 4251 or 4261".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by section 601 of Pub. L. 89-44 to take effect in a manner consistent with the effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

§ 6416. Certain taxes on sales and services.

(a) Condition to allowance.

(1) General rule.

No credit or refund of any overpayment of tax imposed by chapter 31 (retailers taxes), or chapter 32 (manufacturers taxes) shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary or his delegate, that he—

(A) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;

(B) has repaid the amount of the tax to the ultimate purchaser of the article;

(C) in the case of an overpayment under subsection (b) (2), (b) (3) (C), or (b) (4) of this section—

(D) has filed with the Secretary or his delegate the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

(3) Special rules.

For purposes of this subsection—

(A), (B). Repealed. Pub. L. 89-44, title VI, § 601(c) (6), June 21, 1965, 79 Stat. 153.

(C) in any case in which the Secretary or his delegate determines that an article is not taxable, the term "ultimate purchaser" (when used in paragraph (1) (B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this subparagraph is filed on or before the day for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date of such determination; and

(D) in applying paragraph (1) (C) to any overpayment under paragraph (2) (F), (3) (C), or (4) of subsection (b), the term "ultimate vendor" means the ultimate vendor of the other article.

(h) Special cases in which tax payments considered overpayments.

Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) Price readjustments.

If the price of any article in respect of which a tax, based on such price, is imposed by chapter 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216 (f) (2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment. The preceding sentence shall not apply in the case of an article in respect of which tax was computed under section 4223(b) (2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(2) Specified uses and resales.

The tax paid under chapter 32 (or under section 4041 (a) (1) or (b) (1)) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(F) in the case of a tire or inner tube, resold for use as provided in subparagraph (C) of paragraph (3) and the other article referred to in such subparagraph is by any person exported or sold as provided in such subparagraph;

(N)—(Q) Repealed. Pub. L. 89-44, title VI, § 601(c) (9), June 21, 1965, 79 Stat. 153.

(R) in the case of a bus chassis or body taxable under section 4061(a), sold to any person for use as described in section 4221(e) (5).

(3) Tax-paid articles used for further manufacture, etc.

If the tax imposed by chapter 32 has been paid with respect to the sale of any article by the manufacturer, producer, or importer thereof to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if—

(A) in the case of any article other than an article to which subparagraph (B), (C), or (E) applies, such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, another article taxable under chapter 32 manufactured or produced by him;

(B) in the case of a part or accessory taxable under section 4061(b), such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, any other article manufactured or produced by him;

(C) in the case of a tire or inner tube taxable under section 4071, such article is sold by the second manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use and supplies for vessels or aircraft;

(D) Repealed. Pub. L. 89-44, title VI, § 601(c) (10), June 21, 1965, 79 Stat. 153.

(4) Tires and inner tubes.

If—

(A) a tire or inner tube taxable under section 4071 is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him; and

(B) such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire or inner tube which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

(5) Return of certain instalment accounts.

If—

(A) tax was paid under section 4216(e) (1) in respect of any installment account.

(R) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement.

the part of the tax paid under section 4216(e) (1) allocable to the part of the consideration repaid or credited to the purchaser* of such account shall be deemed to be an overpayment.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) Credit for tax paid on tires or inner tubes.

If tires or inner tubes on which tax has been paid under chapter 32 are sold on or in connection with, or with the sale of, another article taxable under chapter 32, there shall (under regulations prescribed by the Secretary or his delegate) be credited (without interest) against the tax imposed on the sale of such other article, an amount determined by multiplying the applicable percentage rate of tax for such other article by—

(1) the purchase price (less, in the case of tires, the part of such price attributable to the metal rim or rim base), if such tires or inner tubes were taxable under section 4071 (relating to tax on tires and inner tubes); or

(2) if such tires or inner tubes were taxable under section 4218 (relating to use by manufacturer, producer, or importer), the price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) at which such or similar tires or inner tubes are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Secretary or his delegate.

The credit provided by this subsection shall be allowable only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

(d) Repealed. Pub. L. 89-44, title VI, § 601(c) (14), June 21, 1965, 79 Stat. 154.

(g) Automobiles, etc.

Under regulations prescribed by the Secretary or his delegate, subsection (b) (2) (A) shall apply, in the case of any article subject to the tax imposed by section 4061 (a), only if the article with respect to which the tax was paid was sold by the manufacturer, producer, or importer for export after receipt by him of notice of intent to export or to resell for export.

(As amended June 21, 1965, Pub. L. 89-44, title II, § 207(c), title VI, § 601(c), title VIII, § 801(d) (2), 79 Stat. 140, 153, 158.)

AMENDMENTS

1965—Subsec. (a)(1). Pub. L. 89-44, § 601(c)(1), struck out "section 4231 (4), (5), or (6) (cabarets, etc.)," from the material preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 89-44, § 601(c)(2), struck out, "admission, or service" following "article" each place it appears.

Subsec. (a)(1)(B). Pub. L. 89-44, § 601(c)(3), removed (i), (ii), and (iii) which dealt specifically with taxes imposed by sections 4041 (a)(1) or (b)(1), 4231 (4), (5), or (8) (cabarets, etc.), and chapters 31 and 32, and amended the subpar. to simply require that the person has repaid the amount of the tax to the ultimate purchaser of the article.

Subsec. (a)(1)(C). Pub. L. 89-44, § 601(c)(4), struck out "or (D)" following "(b)(3)(C)".

Subsec. (a)(1)(D). Pub. L. 89-44, § 601(c)(5), struck out "(1), (ii), or (iii), as the case may be," following "subparagraph (B)".

Subsec. (a)(3)(A), (B). Pub. L. 89-44, § 601(c)(6), struck out subpars. (A) and (B).

Subsec. (a)(3)(C). Pub. L. 89-44, § 601(c)(6), struck out "(ii)" following "paragraph (1)(B)".

Subsec. (a)(3)(D). Pub. L. 89-44, § 601(c)(6), struck out "or (D)" following paragraph (2)(F), (3)(C)".

Subsec. (b)(1). Pub. L. 89-44, § 601(c)(7), struck out "31 or" following "imposed by chapter" and "(in the case of a tax imposed by chapter 32)" following "or allowance, including".

Subsec. (b)(2)(F). Pub. L. 89-44, § 601(c)(8), struck out reference to receiving sets resold for use and removed reference to subparagraph (D) of paragraph (3).

Subsec. (b)(2)(N)—(Q). Pub. L. 89-44, § 601(c)(9), struck out subpars. (N), (O), (P), and (Q).

Subsec. (b)(2)(R). Pub. L. 89-44, § 801(d)(2), added subpar. (R).

Subsec. (b)(3)(A). Pub. L. 89-44, § 601(c)(10), struck out "(D)" following "subparagraph (B), (C)".

Subsec. (b)(3)(B). Pub. L. 89-44, § 601(c)(10), removed references to radio and television components taxable under section 4141 and camera lenses taxable under section 4171.

Subsec. (b)(3)(C). Pub. L. 89-44, § 601(c)(10), removed reference to automobile radios or television receiving sets taxable under section 4141.

Subsec. (b)(3)(D). Pub. L. 89-44, § 601(c)(10), struck out subpar. (D) of subsec. (b)(3) relating to radio receiving sets or automobile receiving sets.

Subsec. (b)(4). Pub. L. 89-44, § 601(c)(11), removed all references to automobile radio or television receiving sets taxable under section 4141.

Subsec. (b)(5). Pub. L. 89-44, §§ 207(c), 601(c)(12), struck out "proportionate" and inserted in lieu thereof "allocable", and struck out "4053(b)(1) or" preceding "4216(e)(1)" wherever appearing.

Subsec. (c). Pub. L. 89-44, § 601(c)(13), removed all references to automobile radio or television receiving sets.

Subsec. (d). Pub. L. 89-44, § 601(c)(14), struck out subsec. (d) which related to mechanical pencils taxable as jewelry.

Subsec. (g). Pub. L. 89-44, § 601(c)(15), struck out "sections 4061(a), 4111, 4121, 4141," and inserted in lieu thereof "section 4061(a)".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (b)(5) by section 207(c) of Pub. L. 89-44 to take effect on June 22, 1965, see section 701(a) of Pub. L. 89-44, set out as a note under section 4061 of this title.

Subsec. (b)(2)(R) applicable with respect to articles sold on or after June 22, 1965, see section 801(e) of Pub. L. 89-44, set out as a note under section 4063 of this title.

Amendment of administrative provisions of section by section 601 of Pub. L. 89-44 to take effect in a manner consistent with the effective date of change of tax provisions to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4216 of this title.

§ 6418. Sugar.

(a) Use as livestock feed or for distillation or production of alcohol.

Upon the use of any manufactured sugar, or article manufactured therefrom, as livestock feed, or in the production of livestock feed, or for the distillation of alcohol, or for the production of alcohol (other than alcohol produced for human food consumption), there shall be paid by the Secretary or his delegate to the person so using such manufactured sugar, or article manufactured therefrom, the amount of any tax paid under section 4501 with respect thereto.

(As amended Nov. 8, 1965, Pub. L. 89-331, § 9(b), 79 Stat. 1278.)

AMENDMENT

1965—Subsec. (a). Pub. L. 89-331 inserted "or production" following "distillation" in the subsection heading and "or for the production of alcohol (other than alcohol produced for human food consumption)," following "the distillation of alcohol," in the text.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by Pub. L. 89-331 effective Nov. 8, 1965, see section 14 of Pub. L. 89-331, set out as a note under section 1111 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6511 of this title.

§ 6420. Gasoline used on farms.

(a) Gasoline.

Except as provided in subsection (h), if gasoline is used on a farm for farming purposes, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

- (1) the number of gallons so used, by
- (2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) Time for filing claim; period covered.

(1) Gasoline used before July 1, 1965.

Except as provided in paragraph (2), not more than one claim may be filed under this section by any person with respect to gasoline used during the one-year period ending on June 30 of any year. No claim shall be allowed under this paragraph with respect to any one-year period unless filed on or before September 30 of the year in which such one-year period ends.

(2) Gasoline used after June 30, 1965.

In the case of gasoline used after June 30, 1965—

(A) not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year; and

(B) no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing an income tax return for such taxable year.

For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A, except that a person's first taxable year beginning after June 30, 1965, shall include the

period after June 30, 1965, and before the beginning of such first taxable year.

(d) Exempt sales; other payments or refunds available.

No amount shall be payable under this section with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(h) Income tax credit in lieu of payment.

(1) Persons not subject to income tax.

Payment shall be made under subsection (a) with respect to gasoline used after June 30, 1965, only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Allowance of credit against income tax.

For allowance of credit against the tax imposed by subtitle A for gasoline used after June 30, 1965, see section 39.

(i) Cross references.

(1) For exemption from tax in case of diesel fuel and special motor fuels used on a farm for farming purposes see section 4041(d).

(2) For civil penalty for excessive claim under this section see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(As amended June 21, 1965, Pub. L. 89-44, title VIII, § 809(a), 79 Stat. 165.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-44, § 809(a)(1)(A), struck out "If" and inserted in lieu thereof "Except as provided in subsection (h), if".

Subsec. (b). Pub. L. 89-44, § 809(a)(2), designated existing provisions as par. (1) and made it applicable to gasoline used before July 1, 1965, and added par. (2).

Subsec. (d). Pub. L. 89-44, § 809(a)(3), struck out "paid" in the first sentence and inserted "payable" in lieu thereof.

Subsec. (h). Pub. L. 89-44, § 809(a)(1)(B), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 89-44, § 809(a)(1)(B), redesignated former subsec. (h) as subsec. (i).

EFFECTIVE DATE OF 1965 AMENDMENT

Section 809(f) of Pub. L. 89-44 provided that: "The amendments made by subsections (a) and (b) [to this section and section 6421(a), (b), (c)(1), (2), (3), (e)(1), (1) and (j) of this title] shall apply with respect to gasoline used on or after July 1, 1965. The amendments made by subsection (c) and (d) [renumbering section 39 as 40, adding new section 39, and amending sections 72(n)(3), 874(a), 314(a)(1)(C), 1481(b)(2)(A)(i), 6201(a)(4), 6211(b)(4), 6213(e)(3) and 6401(b) of this title] shall apply to taxable years beginning on or after July 1, 1965."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 39, 6206, 6675, 7210, 7603, 7604, 7605 of this title.

§ 6421. Gasoline used for certain nonhighway purposes or by local transit systems.

(a) Nonhighway uses.

Except as provided in subsection (1), if gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a highway vehicle owned by the United States, is used on the highway, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon.

(b) Local transit systems.

(1) Allowance.

Except as provided in subsection (1), if gasoline is used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes, the Secretary or his delegate shall, subject to the provisions of paragraph (2), pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(c) Time for filing claims; period covered.

(1) Gasoline used before July 1, 1965.

Except as provided in paragraphs (2) and (3), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during the one-year period ending on June 30 of any year. No claim shall be allowed under this paragraph with respect to any one-year period unless filed on or before September 30 of the year in which such one-year period ends.

(2) Exception.

Except as provided in paragraph (3), if \$1,000 or more is payable under this section to any person with respect to gasoline used during a calendar quarter, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

(3) Gasoline used after June 30, 1965.

(A) In general.

In the case of gasoline used after June 30, 1965—

(i) except as provided in subparagraph (B), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and

(ii) no claim shall be allowed under this subparagraph with respect to gasoline used during any taxable year unless filed by such

person not later than the time prescribed by law for filing an income tax return for such taxable year.

For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A, except that a person's first taxable year beginning after June 30, 1965, shall include the period after June 30, 1965, and before the beginning of such first taxable year.

(B) Exception.

If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

(e) Exempt sales; other payments or refunds available.

(1) Exempt sales.

No amount shall be payable under this section with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(i) Income tax credit in lieu of payment.

(1) Persons not subject to income tax.

Payment shall be made under subsections (a) and (b) with respect to gasoline used after June 30, 1965, only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception.

Paragraph (1) shall not apply to a payment of a claim filed under subsection (c) (3) (B).

(3) Allowance of credit against income tax.

For allowance of credit against the tax imposed by subtitle A for gasoline used after June 30, 1965, see section 39.

(j) Cross references.

(1) For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041.

(2) For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2) (I) and (J).

(3) For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2) (II).

(4) For civil penalty for excessive claims under this section, see section 6675.

(5) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(As amended June 21, 1965, Pub. L. 89-44, title VIII, § 809(b), 79 Stat. 166.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-44, § 809(b)(1)(A), struck out "If" at the beginning of the subsec. and inserted in lieu thereof "Except as provided in subsection (1), if".

Subsec. (b). Pub. L. 89-44, § 809(b)(1)(A), struck out "If" at the beginning of the subsec. and inserted in lieu thereof "Except as provided in subsection (1), if".

Subsec. (c)(1). Pub. L. 89-44, § 809(b)(2)(A), struck out "General rule" from the par. heading and inserted in lieu thereof "Gasoline used before July 1, 1965", and substituted "paragraphs (2) and (3)" for "paragraph (2)" following "Except as provided in".

Subsec. (c)(2). Pub. L. 89-44, § 809(b)(2)(B), struck out "If" and inserted in lieu thereof "Except as provided in paragraph (3), if".

Subsec. (c)(3). Pub. L. 89-44, § 809(b)(2)(C), added par. (3).

Subsec. (e)(1). Pub. L. 89-44, § 809(b)(3), struck out "paid" in the first sentence and inserted "payable" in lieu thereof.

Subsec. (i). Pub. L. 89-44, § 809(b)(1)(B), added subsec. (i). Former subsec. (i) redesignated as (j).

Subsec. (j). Pub. L. 89-44, § 809(b)(1)(B), redesignated former subsec. (i) as subsec. (j).

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to gasoline used on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 39, 6206, 6675, 7210, 7603, 7604, 7605 of this title.

§ 6424. Lubricating oil not used in highway motor vehicles.

(a) Payments.

Except as provided in subsection (g), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used otherwise than in a highway motor vehicle, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used.

(b) Time for filing claims; period covered.

(1) General rule.

Except as provided in paragraph (2), not more than one claim may be filed under subsection (a) by any person with respect to lubricating oil used during his taxable year. No claim shall be allowed under this paragraph with respect to lubricating oil used during any taxable year unless filed by such person not later than the time prescribed by law for filing an income tax return for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A, except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year.

(2) Exception.

If \$1,000 or more is payable under this section to any person with respect to lubricating oil used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to lubricating oil used during such quarter. No claim filed under this

paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

(c) Exempt sales.

No amount shall be payable under this section with respect to any lubricating oil which the Secretary or his delegate determines was exempt from the tax imposed by section 4091. The amount which (but for this sentence) would be payable under this section with respect to any lubricating oil shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such lubricating oil.

(d) Applicable laws.

(1) In general.

All provisions of law, including penalties, applicable in respect of the tax imposed by section 4091 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses.

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(e) Regulations.

The Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(f) Effective date.

This section shall apply only with respect to lubricating oil placed in use after December 31, 1965.

(g) Income tax credit in lieu of payment.

(1) Persons not subject to income tax.

Payment shall be made under subsection (a) only to

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception.

Paragraph (1) shall not apply to a payment of a claim filed under subsection (b) (2).

(3) Allowance of credit against income tax.

For allowance of credit against the tax imposed by subtitle A for lubricating oil used, see section 39.

(h) Cross references.

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(Added Pub. L. 89-44, title II, § 202(b), June 21, 1965, 79 Stat. 137.)

EFFECTIVE DATE

Section effective January 1, 1966, see section 701(a) (1), (2), of Pub. L. 89-44, set out as a note under section 4061 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 39, 6206, 6675, 7210, 7603, 7604, 7605 of this title.

§ 6425. Adjustment of overpayment of estimated income tax by corporation.

(a) Application for adjustment.

(1) Time for filing.

A corporation may, after the close of the taxable year and on or before the 15th day of the third month thereafter, and before the day on which it files a return for such taxable year, file an application for an adjustment of an overpayment by it of estimated income tax for such taxable year. An application under this subsection shall not constitute a claim for credit or refund.

(2) Form of application, etc.

An application under this subsection shall be verified in the manner prescribed by section 6065 in the case of a return of the taxpayer, and shall be filed in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth—

(A) the estimated income tax paid by the corporation during the taxable year,

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year,

(C) the amount of the adjustment, and

(D) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(b) Allowance of adjustment.

(1) Limited examination of application.

Within a period of 45 days from the date on which an application for an adjustment is filed under subsection (a), the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application to discover omissions and errors therein, and shall determine the amount of the adjustment upon the basis of the application and the examination; except that the Secretary or his delegate may disallow, without further action, any application which he finds contains material omissions or errors which he deems cannot be corrected within such 45 days.

(2) Adjustment credited or refunded.

The Secretary or his delegate, within the 45-day period referred to in paragraph (1), may credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation and shall refund the remainder to the corporation.

(3) Limitation.

No application under this section shall be allowed unless the amount of the adjustment equals or exceeds (A) 10 percent of the amount estimated by the corporation on its application as its income tax liability for the taxable year, and (B) \$500.

(4) Effect of adjustment.

For purposes of this title (other than section 6655), any adjustment under this section shall be treated as a reduction, in the estimated income tax paid, made on the day the credit is allowed or the refund is paid.

(c) Definitions.

For purposes of this section and section 6655(g) (relating to excessive adjustment)—

(1) The term "income tax liability" means the excess of—

(A) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

(2) The amount of an adjustment under this section is equal to the excess of—

(A) the estimated income tax paid by the corporation during the taxable year, over

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year.

(d) Consolidated returns.

If the corporation seeking an adjustment under this section paid its estimated income tax on a consolidated basis or expects to make a consolidated return for the taxable year, this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe. (Added Pub. L. 90-364, title I, § 103(d) (1), June 28, 1968, 82 Stat. 262.)

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90-364, set out as notes under sections 6154 and 51 of this title, see sections 103(f) of Pub. L. 90-364, set out as a note under section 6154 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6655 of this title.

Chapter 66.—LIMITATIONS

Subchapter A.—Limitations on Assessment and Collection

§ 6501. Limitations on assessment and collection.

(b) Time return deemed filed.

(1) Early return.

For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 3, 21, or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) Return of certain employment taxes and tax imposed by chapter 3.

For purposes of this section, if a return of tax imposed by chapter 3, 21 or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(4) Return of excise taxes.

For purposes of this section, the filing of a return for a specified period on which an entry has been made with respect to a tax imposed under a provision of subtitle D (including a return on which an entry has been made showing no liability for such tax for such period) shall constitute the filing of a return of all amounts of such tax which, if properly paid, would be required to be reported on such return for such period.

(c) Exceptions.

(7) Termination of private foundation status.

In the case of a tax on termination of private foundation status under section 507, such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment,

(e) Substantial omission of items.

Except as otherwise provided in subsection (c)—

(3) Excise taxes.

In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 year after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 42 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the existence and nature of such item.

(h) Net operating loss or capital loss carrybacks.

In the case of deficiency attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213 (b) (2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed within 18 months after the date on which the taxpayer files in accordance with section 172(b) (3) a copy of the certification (with respect to the taxable year of the net operating loss) issued under section 317 of the Trade Expansion Act of 1962, if later than the date prescribed by the preceding sentence.

(j) Investment credit carrybacks.

In the case of a deficiency attributable to the application to the taxpayer of an investment credit